

**CALIFORNIA PUBLIC UTILITIES COMMISSION**  
**Water Division**

**PROCESSING ADVICE LETTER FOR APPROVAL OF**  
**NON-TARIFFED SERVICE OFFERINGS**

Standard Practice U-21-W

**SAN FRANCISCO, CALIFORNIA**

January 2002

## **A—PURPOSE AND SCOPE**

1. The purpose of this standard practice is to provide guidance to Water Division staff, to the public and to utilities that seek to file an advice letter for approval of a non-tariffed service that is to be provided using utility resources that are also used to provide regulated utility service.
2. These guidelines were established by Decision (D.) 00-07-018, July 6, 2000 in Order Instituting Rulemaking 97-10-049.

## **B—GENERAL INFORMATION**

Paying a utility to bill for services it doesn't render is quite powerful to local governmental agencies. This is because the customer must pay for all the charges or risk having his or her water shut off. The following laws apply:

Cal. Government Code:

54346.1. The local agency may enter into a written contract with a privately owned public utility rendering other than gas or electric service, that the charges for any sewer enterprise or service shall be collected together with and not separately from the charges of said privately owned public utility for any other utility service rendered by it, and that all charges shall be billed upon the same bill and collected as one item.

54346.2. If all or any part of the bill of any privately owned public utility on which any sewer enterprise or service charge is collected is not paid, the privately owned public utility may discontinue its utility service until said bill is paid.

54346.3. The local agency may enter into a written contract with any person, firm or public or private corporation providing for the billing and collection by such person, firm or corporation of the charges for the facilities, service or water furnished by any enterprise. If all or any part of any bill rendered by any such person, firm or corporation pursuant to any such contract is not paid and if such person, firm or corporation renders any public utility service to the person billed, such person, firm or corporation may discontinue its utility service until such bill is paid, and the contract between the local agency and such person, firm or corporation may so provide.

California Health and Safety Code:

5470. The following words wherever used in this article shall be construed as defined in this section, unless from the context a different meaning is

intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words:

(e) Entity. "Entity" means and includes counties, cities and counties, cities, sanitary districts, county sanitation districts, sewer maintenance districts, and other public corporations and districts authorized to acquire, construct, maintain and operate sanitary sewers and sewerage systems.

(f) Rates or Charges. "Rates or charges" shall mean fees, tolls, rates, rentals or other charges for services and facilities furnished by an entity in connection with its sanitation or sewerage systems, including garbage and refuse collection.

5472.5. The rates may be collected with the rates for any other utility service furnished by a department or agency of that entity over which the legislative body thereof does not exercise control, or with a publicly or privately owned public utility, with the written consent and agreement of that department or agency or public utility owner, which agreement shall establish the terms and conditions upon which the collections shall be made. The agreement, in the discretion of the department or agency or public utility owner making the collections, also may provide that those rates shall be itemized, billed upon the same bill, and collected as one item, together with, and not separately from, the other utility service charge.

D.00-07-018 provides that any revenue that results from the provision of non-tariffed services be shared between shareholders and ratepayers 90/10 for active projects and 70/30 for passive (see Appendix A). Any new non-tariffed service not listed in Appendix A is classified as active if it involves an incremental shareholder investment of at least \$125,000, either on a one-time basis or within a twelve month period, otherwise it is classified as passive. No costs properly charged to the utility (i.e., costs that would be recoverable in rates) to be counted toward the \$125,000 threshold.

4. The decision also established a threshold level of utility revenues subject to the sharing. For utilities with "other operating revenue" of over \$100,000, this revenue was set at the amount of other operating revenue adopted in the last general rate case before D.00-07-018. For those utilities with other operating revenue below \$100,000 in the last general rate case before this decision, the threshold was set at zero.

5. Periodic reporting and auditing of the costs allocated to and the revenues derived from non-tariffed products and services are also required, at the discretion of the Water Division. At a minimum the utility must list in its annual report each active and passive investment, and revenues from aggregate non-tariffed offerings.

6. Costs for purchased water, purchased power, pump taxes and postage are removed from the revenues to be shared. No other incremental costs are to be removed. These costs must be absorbed by the utility. Shareholders should pay any additional income

tax liability created by their increased profits. The decision also requires utilities to file an Advice Letter before providing new non-tariffed products and services.

7. In the Advice Letter the utility must show:

- a. The involved portion of utility assets or capacity must have been acquired for the purpose of and is necessary and useful in providing tariffed utility services,
- b. The involved portion of such asset or capacity may be used in offering the non-tariffed product or service without affecting the cost, quality, or reliability of the tariffed products,
- c. The non-tariffed product or service must be marketed with minimal or no incremental ratepayer capital, minimal or no new forms of liability or business risk, and no undue diversion of utility management attention,
- d. The non-tariffed product or service must not violate any law, regulation, or Commission policy regarding anti-competitive practices.
- e. The involved portion of utility assets or capacity has been acquired for the purpose of and is necessary and useful in providing tariffed utility services,
- f. The involved portion of such asset or capacity may be used in offering the non-tariffed product or service without affecting the cost, quality, or reliability of the tariffed products,
- g. The non-tariffed product or service will be marketed with minimal or no incremental ratepayer capital, minimal or no new forms of liability or business risk, and no undue diversion of utility management attention,
- h. The non-tariffed product or service does not violate any law, regulation, or Commission policy regarding anti-competitive practices.

8. The advice letter shall contain:

- A. A full description of the proposed transaction, including, without limitation, identity of parties, revenue and cost forecasts, term, contingencies.
- B. An accounting mechanism to allocate costs of assets in rate base and expenses in rates between tariffed and non-tariffed services.
- C. Copies of all operative documents for the proposed transaction.
- D. A detailed description of proposed accounting for transaction costs and revenues.
- E. Complete identification of all regulated assets that will be used in the proposed transaction.
- F. A list of all employees that will participate in fulfilling the terms of the transaction, with an estimate of the amount of time each will spend.

- G. That the proposed accounting system shall share gross revenues, excluding pass-through items 10/90 for active investments, and 30/70 for passive investments, between ratepayers and shareholders.
- H. That any income tax liability incurred by the shareholders is accounted for in such a manner as to require that shareholders bear the cost.
- I. That all contingencies and liabilities are addressed so as to eliminate ratepayer obligations.
- J. Any other information or opinions that might be relevant to the Commission's consideration of the transaction.

## DESIGNATION OF ACTIVITIES

<b>Category</b>	<b>Activity</b>	<b>Active/Passive Designation</b>
Use of Facilities	<ul style="list-style-type: none"> <li>- Placement of third party communications equipment, attachments, conduit and cable</li> <li>- Parking</li> <li>- Vehicle storage</li> <li>- Office space</li> </ul>	Passive
Use of General Facilities	<ul style="list-style-type: none"> <li>- Parking</li> <li>- Vehicle storage</li> <li>- Meetings/training</li> <li>- Office Space</li> <li>- Placement of third party communications equipment, attachments,</li> </ul>	Passive
Use of Heavy Equipment and Machinery	<ul style="list-style-type: none"> <li>- Use of heavy equipment such as cranes, machinery,</li> </ul>	Passive
Geographic Information Systems Services	<ul style="list-style-type: none"> <li>- Mapping services</li> <li>- Map creation</li> <li>- Specialized geographic data base analysis and development</li> <li>- User training</li> </ul>	Passive
Miscellaneous Services	<ul style="list-style-type: none"> <li>- Training, technical certification, conferences and</li> </ul>	Passive
License of Utility Software	<ul style="list-style-type: none"> <li>- Utility developed software</li> <li>- Software licensed to the utility</li> </ul>	Active

## DESIGNATION OF ACTIVITIES (continued)

Category	Activity	Active/Passive Designation
Customer Account Management Services	<ul style="list-style-type: none"> <li>- Bill calculation, processing and presentation</li> <li>- Meter reading</li> <li>- Payment processing</li> <li>- Credit and collections</li> <li>- Phone center services (responding to customer billing questions, service establishment requests)</li> </ul>	Active
Operation and Maintenance Contracts	<ul style="list-style-type: none"> <li>- Operation and Maintenance of Third Party Utility Systems</li> <li>- Leases of Third Party Utility Systems</li> <li>- Design/Build Contracts</li> </ul>	Active
Meter Services	<ul style="list-style-type: none"> <li>- Replacement of Water Meters for Third Party Utility Systems</li> </ul>	Active
Customer Ancillary Services	<ul style="list-style-type: none"> <li>- Customer Facility Related Services, Including Maintenance Contracts</li> </ul>	Active